REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed August 28, 2002. Claims 2-6, 9-13, 15, 27-29, and 42-49 are currently pending in the present application. More specifically, claims 27-29 have been amended, and claims 42-49 have been newly added. It is believed that the new claims add no new matter to the present application. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

1- Independent Claim 27

Independent claim 27 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Suzuki* (6,401,243). Independent claim 27, as amended, states:

> "A bandwidth allocation manager for determining bandwidth allocation in a digital broadband delivery system, wherein the bandwidth allocation manager dynamically assigns at least two different content delivery modes to a plurality of digital transmission channels based at least partially on a subscriber reservation request, and wherein the at least two different content delivery modes include a pay-per-view mode." (Emphasis supplied).

Neither *Suzuki* nor the other references cited in the Office Action disclose, teach, or suggest "wherein the at least two different content delivery modes include a pay-per-view mode." Therefore, Applicants respectfully submit that claim 27 is in condition for allowance because it recites one or more features that are not disclosed, taught, or suggested by the cited references.

2- Dependent claims 2-6

Since independent claim 27 is allowable over the cited references, then dependent claims 3-6 (which depend from claim 27) are allowable as a matter of law, for at least the reason that they contain all of the elements and features of independent claim 27. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

3- <u>Independent Claim 28</u>

Independent claim 28 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Suzuki*. Independent claim 28, as amended, states:

"A bandwidth allocation system in a digital broadband delivery system comprising:

a bandwidth allocation manager that determines a bandwidth allocation schedule in the digital broadband delivery system based at least partially on a subscriber reservation request, <u>wherein the subscriber reservation request comprises a plurality of subscriber preferences identifying a desired level of random access functionality</u>; and

a network manager in communication with the bandwidth allocation manager, where the network manager allocates bandwidth according to the bandwidth allocation schedule determined by the bandwidth allocation manager." (Emphasis supplied).

Neither *Suzuki* nor the other references cited in the Office Action disclose, teach, or suggest "wherein the subscriber reservation request comprises a plurality of subscriber preferences identifying a desired level of random access functionality." Therefore, Applicants respectfully submit that claim 28 is in condition for allowance because it recites one or more features that are not disclosed, taught, or suggested by the cited references.

4- <u>Dependent claims 9-13</u>

Since independent claim 28 is allowable over the cited references, then dependent claims 10-13 (which depend from claim 28) are allowable as a matter of law for at least the reason that they each contain all of the elements and features of independent claim 28.

5- <u>Independent Claim 29</u>

Independent claim 29 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Suzuki*. Independent claim 29, as amended, states:

"A digital home communication terminal for use in a digital broadband delivery system containing a bandwidth allocation manager comprising:

an interface that receives a subscriber reservation request identifying a date and time that the subscriber wishes to reserve for viewing a program in the future, <u>wherein the subscriber reservation request comprises a plurality of subscriber preferences identifying a desired level of random access functionality</u>; and

a tuner that transmits the subscriber criteria to the bandwidth allocation manager for use in dynamically allocating bandwidth in the digital broadband delivery system." (Emphasis supplied).

Neither *Suzuki* nor the other references cited in the Office Action disclose, teach, or suggest "wherein the subscriber reservation request comprises a plurality of subscriber preferences identifying a desired level of random access functionality." Therefore, Applicants respectfully submit that claim 29 is in condition for allowance because it recites one or more features that are not disclosed, taught, or suggested by the cited references.
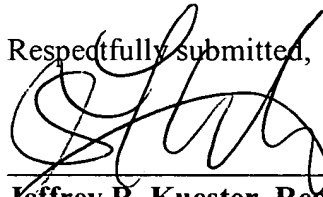
6- Dependent claim 15

Since independent claim 29 is allowable over the cited references, then dependent claim 15 (which depends from claim 29) is allowable as a matter of law for at least the reason that it contains all of the elements and features of independent claim 29.

CONCLUSION

In light of the foregoing remarks and for at least the reasons set forth above, Applicants respectfully submit that all rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 2-6, 9-13, 15, 27-29, and 42-49 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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ANNOTATED VERSION OF MODIFIED CLAIMS TO SHOW CHANGES MADE

The following is a marked up version of the amended claims. Amend the following claims by adding the language that is underlined ("___") and by deleting the language that is enclosed within brackets ("[ ]"):

27.   (Twice Amended) A bandwidth allocation manager for determining bandwidth allocation in a digital broadband delivery system, wherein the bandwidth allocation manager dynamically assigns at least two different content delivery modes to a plurality of digital transmission channels based at least partially on a subscriber reservation request [comprising a date and time that the subscriber wishes to reserve for viewing a program in the future, a plurality of subscriber preferences identifying a preferred content delivery mode and a price the subscriber is willing to pay to have the reservation request fulfilled], and wherein the at least two different content delivery modes include a pay-per-view mode.

28.   (Twice Amended) A bandwidth allocation system in a digital broadband delivery system comprising:
a bandwidth allocation manager that determines a bandwidth allocation schedule in the digital broadband delivery system based at least partially on a subscriber reservation request, wherein the subscriber reservation request comprises a plurality of subscriber preferences identifying a desired level of random access functionality [a preferred content delivery mode and a price the subscriber is willing to pay to have the reservation request fulfilled]; and
a network manager in communication with the bandwidth allocation manager, where the network manager allocates bandwidth according to the bandwidth allocation schedule determined by the bandwidth allocation manager.

29.   (Twice Amended) A digital home communication terminal for use in a digital broadband delivery system containing a bandwidth allocation manager comprising:
an interface that receives a subscriber reservation request identifying a date and time that the subscriber wishes to reserve for viewing a program in the future, wherein the subscriber

reservation request comprises a plurality of subscriber preferences identifying <u>a desired level of random access functionality</u> [a preferred content delivery mode and a price the subscriber is willing to pay to have the reservation request fulfilled]; and

a tuner that transmits the subscriber criteria to the bandwidth allocation manager for use in dynamically allocating bandwidth in the digital broadband delivery system.